

## SUMMARY STATEMENT

*State of Idaho v. Melonie Dawn Smith*

Docket No. 45758

A jury found Melonie Dawn Smith guilty of murder in the first degree and destruction, alteration, or concealment of evidence. Smith appeals from the judgment of conviction and asserts the district court erred by denying her motion to suppress evidence gathered during a warrantless search of her home. Smith also contends the district court erred by allowing the State to use hearsay testimony for the truth of the matter asserted. Further, Smith argues the State committed prosecutorial misconduct, amounting to fundamental error, by admitting a video that showed Smith repeatedly asserting her Fourth Amendment rights as evidence during trial. Finally, Smith reasons, in the aggregate, the alleged errors amounted to cumulative error.

The Idaho Court of Appeals held the district court did not err in denying Smith's motion to suppress because the warrantless search was supported by the exigency and protective sweep exceptions to the warrant requirement. Secondly, the district court did not err in overruling Smith's hearsay objections because the State did not offer the testimony for proof of the matter asserted, but instead, as impeachment evidence. Smith was required to request a limiting instruction if she wanted the court to instruct the jury that the testimony at issue could only be used for impeachment purposes, not as proof of Smith's guilt. Additionally, Smith did not establish the admission of the video evidence constituted fundamental error because, as Smith's counsel objected to the evidence at trial, it is not subject to fundamental error review. However, even if the admission of the video was subject to fundamental error review, Smith did not establish prongs one and two of the analysis. Finally, as Smith failed to demonstrate at least two errors, she did not establish the necessary predicate for the application of the cumulative error doctrine. Accordingly, the Court of Appeals affirmed the district court's judgment of conviction.